

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

X

4 NELSON QUINTANILLA, ALEJANDRO AMAYA, ALEX AMIR
5 AREVALO, MAYNOR FAJARDO, WALTER GARCIA, JOSE L.
6 MARTINEZ, PRACELIS MENDEZ, OSMAR W. PAGOADA,
7 JAVIER QUINTANILLA, EDWIN RIVERA, CARLOS
8 ESCALANTE, KEVIN GALEANO, LERLY NOE RODRIGUEZ,
9 JOSE VEGA CASTILLO, JUAN QUINTEROS, and MARCUS
10 TULIO PEREZ,

11 Plaintiffs,

12 -against-

13 SUFFOLK PAVING CORP., SUFFOLK ASPHALT CORP.,
14 LOUIS VECCHIA, CHRISTOPHER VECCHIA, HELENE
15 VECCHIA, and JOHN DOES 1-5,

16 Defendants.

X

17
18 October 19, 2011
19 11:20 a.m.

20 4875 Sunrise Highway
21 Bohemia, New York

22 EXAMINATION BEFORE TRIAL of

23 JOSE VEGA CASTILLO, one of the Plaintiffs
24 herein, taken by the Defendant, pursuant to
25 Order, held at the above-mentioned time and
place, before MICHELLE ADAMO, a Notary Public of
the State of New York.

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2 A P P E A R A N C E S :

3

4 LAW OFFICES OF LAUREN GOLDBERG, PLLC
5 Attorneys for Plaintiffs
6 501 Fifth Avenue
7 New York, New York 10017
8 (NOT PRESENT)

8

9 LAW OFFICES OF PATRICK E. McNAMARA
10 Co-Counsel for Plaintiffs
11 868 Little East Neck Road
12 West Babylon, New York 11704

13 BY: PATRICK McNAMARA, ESQ.

12

13 LAW OFFICES OF IAN WALLACE
14 Co-Counsel for Plaintiffs
15 501 Fifth Avenue
16 New York, New York 10017
17 (NOT PRESENT)

17

18 ZABELL & ASSOCIATES, P.C.
19 Attorneys for Defendants
20 4875 Sunrise Highway
21 Bohemia, New York 11716

22 BY: SAUL ZABELL, ESQ.

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22

23 ALSO PRESENT:

24 Margarita Aries - Spanish Interpreter

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED
by and between the attorneys for the
respective parties herein, that filing,
sealing and certification be and the same
are hereby waived.

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the form
of the question shall be reserved to the
time of the trial.

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be signed
and sworn to before any officer authorized
to administer an oath, with the same force
and effect as if signed and sworn to before
the Court.

1

2 M A R G A R I T A A R I A S, the Spanish
3 Interpreter herein, was duly sworn to
4 interpret the questions from English into
5 Spanish and the answers from Spanish into
6 English to the best of her ability:

7 J O S E V E G A C A S T I L L O, the witness
8 herein, having been first duly sworn by
9 a Notary Public in and of the State of
10 New York, was examined and testified as
11 follows:

12 EXAMINATION BY

13 MR. ZABELL:

14 Q State your name for the record,
15 please.

16 A Jose Vega Castillo.

17 Q State your address for the record,
18 please.

19 A 245 Vermont Avenue, Bay Shore, New
20 York 11706.

21 Q They warned you about me already?

22 A Yes.

23 Q It's all right, I'm a nice guy,
24 you have nothing to worry about.

25 MR. ZABELL: Let the record

1 J. Vega Castillo

2 reflect, Patrick likes my shirt. I'm
3 glad I can give you something nice to
4 look at, Patrick.

5 Q Mr. Vega Castillo, how are you
6 today?

7 A Fine.

8 Q You feeling all right?

9 A Yes.

10 Q Are you currently under the
11 influence of any drugs or alcohol?

12 A No.

13 Q Can you think of any reason why
14 your ability to give truthful and accurate
15 testimony today would be impaired?

16 A Okay.

17 Q No, can you think of any reason
18 why your ability to give truthful and accurate
19 testimony today would be impaired?

20 A No, I don't have a reason.

21 Q Do you have a memory?

22 A More or less.

23 Q Do you consider it good, bad,
24 medium?

25 A Good.

1 J. Vega Castillo

2 Q You sure?

3 MR. MCNAMARA: Objection.

4 A Not much, really.

5 Q It's not that good, really?

6 MR. MCNAMARA: Objection.

7 A From many years ago.

8 Q Your memory is not that good?

9 A Normal, like any person.

10 Q What did you eat for breakfast
11 yesterday?

12 A I didn't have breakfast.

13 Q You didn't have breakfast or you
14 don't remember?

15 MR. MCNAMARA: Objection.

16 A I didn't have breakfast. I don't
17 usually.

18 Q What kind of hair gel do you use?

19 A Gorilla.

20 Q Gorilla Glue?

21 A Yes, it's called Gorilla.

22 Q I know. I use it for my son, not
23 for me, though.

24 A Okay.

25 Q You know you're at a deposition

1 J. Vega Castillo

2 today, right?

3 A Yes.

4 Q You're required to provide answers
5 to the questions that I ask you.

6 Do you understand that?

7 A Yes.

8 Q If you don't understand the
9 questions that I ask you, you have an obligation
10 to tell me that you don't understand the
11 question.

12 Do you understand that?

13 A Yes.

14 Q If you provide an answer to a
15 question that I ask you, it will be assumed that
16 you understood the question.

17 Do you understand that?

18 A Yes.

19 Q Do you have any questions for me
20 before we begin?

21 A No, I want to hear you first.

22 Q Okay. How did you get to my
23 office today?

24 A My brother brought me.

25 Q Is he waiting for you?

1 J. Vega Castillo

2 A No.

3 Q Do you drive?

4 A No.

5 Q Do you ever drive?

6 A No.

7 Q

8 A

9 Q

10 A

11 Q

12 A

13 Q

14

15 A

16 Q

17 A

18 Q

19

20 MR. MCNAMARA: Objection.

21 Q

22 A

23 Q

24

25 A

1 J. Vega Castillo

2 Q Where are you from, sir?

3 A El Salvador.

4 Q When did you come to America from
5 El Salvador?

6 A In 1999.

7 Q [REDACTED]

8 [REDACTED]

9 MR. MCNAMARA: Objection.

10 [REDACTED]

11 Q Couldn't be.

12 MR. MCNAMARA: Objection.

13 Q [REDACTED]

14 [REDACTED]

15 MR. MCNAMARA: Objection.

16 A [REDACTED]

17 Q [REDACTED]

18 MR. MCNAMARA: Objection.

19 A [REDACTED].

20 Q [REDACTED]

21 [REDACTED]

22 A [REDACTED]

23 Q Do you know why you're suing
24 Suffolk Paving?

25 A Yes.

1 J. Vega Castillo

2 Q Do you still work for Suffolk
3 Paving?

4 A No. I don't even want to.

5 Q I was not offering you.

6 A Okay.

7 Q When did you stop working for
8 Suffolk Paving?

9 A Two years ago.

10 Q When?

11 A I don't have exact dates.

12 Q Do you have the month?

13 A No.

14 Q Do you know why you no longer work
15 for Suffolk Paving?

16 A Excuse me, I don't understand.

17 Q Do you know why you're no longer
18 working at Suffolk Paving?

19 A Yes. Because we complained to the
20 Department of Labor, and he no longer gave us
21 employment.

22 Q Who complained to the Department
23 of Labor?

24 A All of us.

25 Q Who?

1 J. Vega Castillo

2 A The whole group that is involved
3 in this.

4 Q I don't know who you're referring
5 to, so you're going to have to give specific
6 names.

7 A I don't have names.

8 Q Did you specifically complain to
9 the Department of Labor?

10 A No.

11 Q So somebody complained on your
12 behalf?

13 A We all went together.

14 Q Where did you go?

15 A To Hempstead.

16 Q Where in Hempstead?

17 A I don't have address.

18 Q Who did you speak to in Hempstead?

19 A I don't know the name, either.

20 Q Was it a man or woman?

21 MR. MCNAMARA: Objection.

22 A A man.

23 Q You have no recollection what this
24 man's name is?

25 MR. MCNAMARA: Objection.

1 J. Vega Castillo

2 A No.

3 Q You believed that because you
4 complained to this unknown man in Hempstead, you
5 were fired from Suffolk Paving?

6 MR. MCNAMARA: Objection.

7 A No.

8 Q Why do you believe you were fired
9 from Suffolk Paving?

10 A Because they told me that we
11 didn't have work.

12 Q Who was the "they"?

13 A The supervisor or foreman, Tommy.

14 Q Was it in December that they
15 didn't have work?

16 A No, it was at the beginning of the
17 season.

18 Q When did you go see this man at
19 the Department of Labor in Hempstead?

20 A In about November of last year.

21 Q November of 2010?

22 A 2009, I think.

23 Q So that was two years ago?

24 A Yes, that is what I am saying.

25 Q You said November of last year

1 J. Vega Castillo

2 just before.

3 A Okay, excuse me for that.

4 Q Mr. Vega Castillo, it is very
5 important that you be accurate with what you're
6 testifying to today.

7 Do not take this situation
8 lightly, it is very serious. If you lie under
9 oath, it will be as if you lied in front of a
10 Judge in court.

11 Do you understand that?

12 A Yes.

13 Q So I don't want you to lie, okay?

14 MR. MCNAMARA: Objection.

15 A I'm not lying.

16 Q Look at me, please. I don't want
17 you to lie, so I want you to listen to the
18 questions that are being asked of you. It's
19 very important.

20 If you look at your lawyer, he
21 doesn't want you to lie, either. It makes him
22 to look bad.

23 MR. MCNAMARA: Objection.

24 Q And he can't afford to look bad.

25 A Yes.

1 J. Vega Castillo

2 MR. ZABELL: You agree with my
3 characterization, don't you, Counselor?

4 MR. MCNAMARA: I make my living
5 off my looks.

6 Q You can smile.

7 A Okay.

8 Q Are you represented by Counsel
9 today?

10 A Here?

11 Q Yes.

12 A It's him.

13 Q Are you asking me, or are you
14 telling me?

15 A I'm asking you, as well.

16 Q If you're asking me, I'm going to
17 tell you no.

18 MR. MCNAMARA: Objection.

19 Q But I'm asking you.

20 A Yes, it's him.

21 Q Nice guy?

22 A Yes.

23 Q You trust him?

24 A Yes.

25 Q Did you give him any money?

1 J. Vega Castillo

2 A No.

3 Q Did you give any attorneys any
4 money to represent you?

5 A No.

6 Q Did you sign an agreement with
7 him?

8 A No.

9 Q Do you know his name?

10 A No, I just met him here now.

11 Q His name is Patrick.

12 A Okay.

13 Q If you shout his name now, I
14 promise you, he'll turn around. Do you want to
15 try? Watch, Patrick. You see?

16 You stopped working in
17 November 2009, correct?

18 A Yes.

19 Q You stopped working in
20 November 2009, because it was the end of the
21 season, correct?

22 MR. MCNAMARA: Objection.

23 A Yes.

24 Q The season always ended in
25 November, correct?

1 J. Vega Castillo

2 A Yes.

3 Q Then, the following year, are you
4 saying that you asked Tommy to come back to
5 work, and he said he had no work for you?

6 A Yes.

7 Q You know that there were people
8 that sued Suffolk Paving that did go back to
9 work, did you know that?

10 A Yes.

11 Q Why are you different than them?

12 A [REDACTED]

13 [REDACTED]

14 Q [REDACTED]

15 [REDACTED]

16 A [REDACTED]

17 Q [REDACTED]

18 [REDACTED]

19 MR. MCNAMARA: Objection.

20 A [REDACTED]

21 [REDACTED]

22 Q [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 A [REDACTED]

1 J. Vega Castillo

2

3 Q But there were other people that
4 complained to the Department of Labor that are
5 still working?

6 A Only one, only two.

7 Q Was it only one or two?

8 A No, two.

9 Q When did you speak to Tommy?

10 A Not again from that time.

11 Q From what time?

12 A From that month when I asked him
13 if I could continue working.

14 Q That was in November 2009?

15 A Yes.

16 Q After November of 2009, you never
17 once spoke to Tommy?

18 A No.

19 Q When you spoke to Tommy in
20 November 2009, did you speak to him on the
21 telephone or in person?

22 A In person, I went to the yard.

23 Q Did you give him your cell phone
24 number?

25 A He had all of my information.

1 J. Vega Castillo

2 Q Did you give him your cell phone
3 number?

4 A Yes.

5 Q What cell phone number did you
6 have in November 2009?

7 A I've changed it many times. I
8 don't know which one it is.

9 Q You have no recollection what your
10 cell phone number was?

11 A No.

12 Q Do you know what it was in
13 January 2010?

14 A Excuse me?

15 Q Do you know what your cell phone
16 number was in January 2010?

17 A No, I don't.

18 Q Do you know what it was in
19 February 2010?

20 A No.

21 Q Do you know what it was in
22 March 2010?

23 A No.

24 Q Do you know what it was in
25 April 2010?

1 J. Vega Castillo

2 A That's the one that I have now.

3 Q You got a new cell phone in

4 April 2010?

5 A Yes.

6 Q What is that phone number?

7 A [REDACTED].

8 Q If I was to call that number right

9 now, it would ring?

10 A Yes, it's my number.

11 Q Are you sure?

12 A Of course. Why should I lie?

13 Q I have lots of reasons why you

14 should lie, but I'm not going to answer.

15 Where's your phone?

16 A Why?

17 MR. ZABELL: Let the record

18 reflect that I just dialed this

19 individual's telephone number, and it

20 appears that at the same time I dialed

21 it, his phone started to vibrate.

22 Q Mr. Castillo, did you call Tommy

23 in April 2010 to give him your new cell phone

24 number?

25 A I no longer had a contract with

1 J. Vega Castillo

2 him. I had been fired already.

3 Q Who told you that you were fired?

4 MR. MCNAMARA: Objection.

5 A He did.

6 Q Who is "he"?

7 A Tommy.

8 Q You stopped working in
9 November 2009, because it was the end of the
10 season, correct?

11 A Yes.

12 Q The season starts up in April of
13 2010, correct?

14 A Yes, that's true.

15 Q In April 2010, you got a new cell
16 phone number?

17 A Yes. Because since they had
18 already told me that they didn't need my
19 service, I didn't need to give them numbers,
20 because I went to speak with him in person.

21 Q The season ends November of every
22 year, correct?

23 A Yes.

24 Q You already testified to that.

25 If the season ends in

1 J. Vega Castillo

2 November 2009, when does the season start?

3 A At the beginning of April.

4 Q April or May of every year,
5 correct?

6 MR. MCNAMARA: Objection.

7 Q Yes or no? Everybody else
8 testified it was April or May.

9 MR. MCNAMARA: Objection.

10 A I don't have exact dates.

11 Q No, I'm not asking for an exact
12 date.

13 MR. MCNAMARA: Objection.

14 Q I'm not asking for specific dates.
15 I'm just asking for months. Everybody testified
16 that the season ends, as you just testified, at
17 the end of November and it begins in April or
18 May of every year, correct?

19 MR. MCNAMARA: Objection.

20 A We don't always start at the same
21 time. That's why I am a little confused.

22 Q You start April or May of every
23 year, right?

24 MR. MCNAMARA: Objection.

25 A Yes.

1 J. Vega Castillo

2 Q You didn't speak to Tommy since
3 November 2009, correct?

4 A (No verbal response.)

5 Q That's what you already testified
6 to.

7 A (No verbal response.)

8 Q You already testified to it,
9 right?

10 A November of the season when it
11 ended, I called, then April of the following
12 year, I went and they told me that no more
13 employment for me.

14 Q Wait a minute. Before you
15 testified that you went to see Tommy in November
16 of 2009, and that's when he said that you can't
17 work there anymore.

18 Don't you remember testifying to
19 that before?

20 A Yes.

21 Q Look at me, please, Mr. Castillo.
22 I call you Mr. Castillo or Mr. Vega Castillo?

23 A Jose.

24 Q I would rather be a little more
25 formal, okay? So I'm either going to call you

1 J. Vega Castillo

2 Mr. Vega or Mr. Castillo.

3 A Mr. Castillo.

4 Q Mr. Castillo, I don't want you to
5 lie to me, and I can sense from the look in your
6 eyes that you don't want to lie to me, okay?

7 It's very important that you
8 listen to all of the questions before giving an
9 answer, because right now, I have found an
10 inconsistency in your testimony that if I
11 thought you were being a wiseguy, I would have
12 to accuse you of lying to me, okay?

13 MR. MCNAMARA: Objection.

14 Q I don't think you're being a
15 wiseguy. I just think you're trying to think of
16 a story as I ask these questions. It's very
17 important that you only tell me the truth.

18 Can you do that?

19 A I can do that, but the thing is
20 that I don't have exact dates.

21 Q You already testified to me that
22 you have a good memory, right?

23 A Okay.

24 Q I want you to use that good memory
25 and tell me if you remember testifying today

1 J. Vega Castillo

2 that the last time that you spoke to Tommy was
3 in November 2009?

4 A (No verbal response.)

5 Q Do you remember that? I see you
6 shaking your head yes.

7 A Yes.

8 Q You're not lying to me today,
9 right?

10 A No, I'm going to try not to.

11 Q You haven't lied to me yet?

12 A And I don't need to lie.

13 Q You haven't lied to me at all
14 today, right?

15 A No.

16 Q The last time you spoke to Tommy
17 was in November 2009, correct?

18 A Yes.

19 Q And you changed your telephone
20 number in April 2010?

21 A Yes, around there, around those
22 months.

23 Q It could have been May, right?

24 A Probably.

25 Q May or April. When you changed

1 J. Vega Castillo

2 your telephone number, what did you do with your
3 old telephone number?

4 A I only called to have my number
5 changed.

6 Q Are you suing Suffolk Paving
7 because you believe they fired you in
8 retaliation for filing a lawsuit or complaining
9 about your wages?

10 MR. MCNAMARA: Objection.

11 A Probably, yes.

12 Q So you are?

13 MR. MCNAMARA: Objection.

14 A Yes.

15 MR. MCNAMARA: We have not
16 asserted a retaliation claim on behalf of
17 Mr. Castillo. If necessary, we're
18 willing to stipulate to that on the
19 record.

20 MR. ZABELL: I'll allow you to
21 stipulate to that on the record, but
22 you're going to have to supplement that,
23 like you did, with a written stipulation
24 here in my office before we conclude
25 today.

1 J. Vega Castillo

2 MR. MCNAMARA: Okay, that's fine.

3 Q Mr. Castillo, do you understand
4 what your lawyer just said?

5 A No.

6 Q He said you're lying to me.

7 MR. MCNAMARA: Objection.

8 Q And you're not asserting a claim
9 for retaliation. Are you aware of that?

10 A No.

11 Q Do you want an opportunity to
12 speak to him?

13 A I don't speak good English.

14 Q But the woman that is interpreting
15 for you now, the pretty woman with the coffee in
16 her hand, the interpreter, can interpret for
17 you.

18 A If it's necessary, yes.

19 Q I think it might be.

20 MR. ZABELL: Patrick, do you
21 agree?

22 MR. MCNAMARA: That's fine.

23 (Whereupon, a recess was taken
24 from 11:43 a.m. to 12:06 p.m.)

25 Q Mr. Castillo, it was explained to

1 J. Vega Castillo

2 you why your lawyer made a representation that
3 you did not agree with, correct?

4 A I don't understand the question.

5 Q You understand that you're not
6 suing for any retaliation claims, correct?

7 A Yes.

8 Q So as you're sitting here now, it
9 is your position that you are not suing for any
10 retaliation claims, correct?

11 A Only for the hours that he has not
12 paid us.

13 Q No claim of retaliation, correct?
14 MR. MCNAMARA: Objection.

15 A No.

16 Q No, not correct, or no, yes,
17 correct?

18 MR. MCNAMARA: Objection.

19 A Yes, correct.

20 Q Was it yes or no?

21 MR. MCNAMARA: Objection.

22 A Yes.

23 Q Si, what? I need you to explain
24 in your own words for the record.

25 A Yes, there is no retaliation.

1 J. Vega Castillo

2 Q So when you testified before that
3 there was a retaliation, you were mistaken,
4 correct?

5 MR. MCNAMARA: Objection.

6 A Yes, I didn't understand the
7 question.

8 Q Remember, if you don't understand
9 the question, I'm ordering you not to answer it
10 and to simply say, I don't understand the
11 question.

12 Are we clear?

13 A Yes.

14 Q If you provide an answer,
15 everybody in this room and in the court is going
16 to assume that you understand the question.

17 Do you understand what I am saying
18 to you?

19 A Yes.

20 Q Okay, very good. Do you think
21 that you were discriminated against when you
22 worked at Suffolk Paving?

23 A No.

24 Q You don't think they treated you
25 differently because you're Hispanic?

1 J. Vega Castillo

2 A No.

3 Q They treated you pretty good
4 there, correct?

5 A Yes.

6 Q They were very nice to you?

7 A Yes.

8 Q When did you start working for
9 Suffolk Paving?

10 A 2002.

11 Q Who did you work for in 2002?

12 A I didn't have an employment at
13 that time.

14 Q Do you remember who you worked for
15 in 2002?

16 A For Suffolk Paving.

17 Q Do you have any idea why we're
18 looking at you with this confused look on our
19 faces?

20 A No.

21 Q Because I asked you who you worked
22 for in 2002, and you said you didn't work for
23 anybody in 2002. When I asked you the same
24 question again and you said Suffolk Paving, so
25 either you're lying or you're confused; which

1 J. Vega Castillo

2 one is it?

3 A I started to work --

4 Q Just answer the question: Which
5 one is it? Just answer my question, don't
6 explain anything. Either you were lying to me
7 or you're confused; which one is it?

8 MR. MCNAMARA: Objection.

9 Q Which one is it?

10 A Confused.

11 Q Okay, I'll give you the benefit of
12 the doubt now.

13 In 2002, you just testified you
14 worked for Suffolk Paving, correct?

15 A Yes.

16 Q What did you do for Suffolk
17 Paving?

18 A We did paving.

19 Q What did you do?

20 A Oh, I was laborer with a shovel.

21 Q How much did you get paid an hour
22 in 2002?

23 A They paid me \$100 a day.

24 Q Is that all you got paid?

25 A For the moment.

1 J. Vega Castillo

2 Q We're only talking about 2002.

3 A Yes. It was the equivalent to \$10
4 an hour.

5 Q In 2002, you got paid \$10 an hour,
6 correct?

7 A Yes.

8 Q That was for all of the hours that
9 you worked, correct?

10 A Yes.

11 Q In 2003, where did you work?

12 A Same place.

13 Q What did you do in 2003?

14 A Raker.

15 Q How much did you get paid an hour
16 in 2003?

17 A I think the same.

18 Q \$10 an hour?

19 A Yes.

20 Q Did you ever get paid anything,
21 other than \$10 an hour?

22 A After they gave me a raise.

23 Q When did they give you a raise?

24 A When, I don't recall.

25 Q In 2003, did you ever do any

1 J. Vega Castillo

2 prevailing wage jobs?

3 A Yes, sometimes.

4 Q How much did you get paid an hour
5 for your prevailing wage jobs?

6 A They paid me more, but I don't
7 remember how much.

8 Q Did you do any prevailing wage
9 jobs in 2002?

10 A No. In about 2003, not always.

11 Q Did you do any prevailing wage
12 jobs in 2002?

13 MR. MCNAMARA: Objection.

14 A No.

15 Q Did you do any prevailing wage
16 jobs in 2003?

17 A Sometimes.

18 Q What prevailing wage jobs did you
19 do in 2003?

20 A School parking lots.

21 Q What school parking lots?

22 A I remember the one that is on
23 Willets Road, and the one that's on Fifth Avenue
24 and others.

25 Q What dates did you do the work on

1 J. Vega Castillo

2 those projects?

3 A I don't recall.

4 Q You don't recall any of the dates?

5 A No.

6 Q None at all?

7 A No.

8 Q Because your memory is not that
9 good?

10 A Probably.

11 Q It's all right, you don't have to
12 be embarrassed about it.

13 So in 2003, they paid you \$10 an
14 hour, unless you were working on prevailing wage
15 jobs, correct?

16 A I didn't understand the question.

17 Q In 2003, they paid you \$10 an
18 hour, unless you were working on prevailing wage
19 jobs, correct?

20 A No, it was -- they were my regular
21 hours.

22 Q When you worked on prevailing wage
23 jobs, you got paid a different rate of pay,
24 correct?

25 A Yes.

1 J. Vega Castillo

2 Q What was that rate of pay?

3 A I don't recall.

4 Q Every prevailing wage job you
5 worked on, you got paid a different rate of pay
6 for, correct?

7 A Yes.

8 Q That was higher than \$10 an hour,
9 correct?

10 A Of course.

11 Q A lot higher, right?

12 A Not much, but it was higher.

13 Q Do you remember how much it was at
14 all?

15 A No.

16 Q You understand that on every
17 prevailing wage job you worked, you got paid
18 prevailing wage rates of pay?

19 A Yes.

20 Q So you're not claiming that you're
21 owed any prevailing wage hours?

22 A No.

23 Q No, correct, or no, not correct?

24 A It's not true.

25 Q What is not true?

1 J. Vega Castillo

2 A That I'm not claiming prevailing
3 wage hours.

4 Q So you are claiming prevailing
5 wage hours?

6 A No.

7 Q So you're not claiming you're owed
8 any prevailing wage hours, correct?

9 A Not prevailing wage.

10 Q Okay, very good. It's important
11 that I know that, because your lawyers say that
12 you are claiming it.

13 MR. MCNAMARA: Objection.

14 Q Did you know that?

15 A What I am claiming is all of my
16 lost hours.

17 Q What lost hours?

18 A When I worked between eleven and
19 twelve hours a day, he would pay me eight.

20 Q Did you prepare for this
21 deposition in any way?

22 A No.

23 Q Did you meet with anybody before
24 coming here today?

25 A No.

1 J. Vega Castillo

2 Q When was the last time you met
3 with your attorney?

4 MR. MCNAMARA: Objection.

5 A About a month ago.

6 Q Who did you meet with?

7 MR. MCNAMARA: Objection.

8 A I don't remember this guy's name.
9 He's a guy that speaks Spanish.

10 Q Big guy, little guy?

11 A Little.

12 Q A little guy?

13 A Yes (indicating.)

14 Q If I said his name, would you
15 recognize it?

16 A Probably.

17 Q Patrick McNamara?

18 A No, that's him.

19 Q Lauren Goldberg?

20 A No.

21 Q Ian Wallace?

22 A No, I don't know his name.

23 Q Were you alone or with somebody
24 when you met him?

25 MR. MCNAMARA: Objection.

1 J. Vega Castillo

2 A A few of us.

3 Q Who were the people that were
4 there?

5 MR. MCNAMARA: Objection.

6 A My ex-coworkers.

7 Q What are their names?

8 MR. MCNAMARA: Objection.

9 A I don't remember them.

10 Q Who drove?

11 MR. MCNAMARA: Objection.

12 A My friend.

13 Q What's his name?

14 A Juan Quinteros.

15 Q I know Juan.

16 A That's good.

17 Q He's not so good with the honesty
18 though, right?

19 MR. MCNAMARA: Objection.

20 A I don't know.

21 Q Sure, you do?

22 A No.

23 Q I think you do. He drove
24 everybody?

25 A Some of them.

1 J. Vega Castillo

2 Q He drove you?

3 A Yes, he took me to my attorney.

4 Q Was he in the meeting with you
5 with the attorney?

6 MR. MCNAMARA: Objection.

7 A All of us.

8 Q That's where you all got your
9 stories straight, correct?

10 MR. MCNAMARA: Objection.

11 A Yes.

12 Q You all practiced your story to
13 make sure that everyone would say the same
14 thing?

15 MR. MCNAMARA: Objection.

16 A No.

17 Q Eh-eh-eh.

18 A No.

19 Q Did anybody say something that was
20 different than anybody else?

21 MR. MCNAMARA: Objection.

22 A Everyone's the same.

23 Q Right. That's what you went there
24 to make sure of, correct?

25 MR. MCNAMARA: Objection.

1 J. Vega Castillo

2 A Of course.

3 Q In 2004, where did you work?

4 A Suffolk Paving, as well.

5 Q How much did you make an hour at
6 Suffolk Paving in 2004?

7 A I don't remember, \$16.

8 Q Did you get paid \$16 an hour for
9 every hour that you worked?

10 MR. MCNAMARA: Objection.

11 A Yes.

12 Q In 2005, where did you work?

13 A There, as well.

14 Q Suffolk Paving?

15 A Yes.

16 Q How much did you get paid an hour?

17 A The same.

18 Q \$16 an hour?

19 A Yes.

20 Q That's \$16 an hour for every hour
21 that you worked?

22 A Yes.

23 Q In 2006, where did you work?

24 A For a different company.

25 Q What other company?

1 J. Vega Castillo

2 A Industrial Pave-Co.

3 Q From when in 2006 to when in 2006
4 did you work for Industrial Pave-Co?

5 A I don't have exact dates. I only
6 know that it was 2006.

7 Q Did you work for Suffolk Paving at
8 all in 2006?

9 A I remember that I did.

10 Q When?

11 A A couple of months during that
12 season.

13 Q What months?

14 A Between May and June.

15 Q Do you have any pay stubs from
16 Industrial Pave-Co?

17 A I've tried to look for them, but I
18 can't find them.

19 Q So is your answer no?

20 A Yes.

21 Q You either lost them or destroyed
22 them?

23 MR. MCNAMARA: Objection.

24 Q Correct?

25 A I have lost them.

1 J. Vega Castillo

2 Q You're sure that you didn't
3 destroy them?

4 MR. MCNAMARA: Objection.

5 A No, I don't have a reason to do
6 that.

7 Q Do you have any of your pay stubs
8 from Suffolk Paving?

9 A Yes, I have many.

10 Q Where are they?

11 A At home.

12 Q Are you living in Bay Shore?

13 A Yes.

14 Q You okay?

15 A Yes.

16 Q You're not crying?

17 A No.

18 Q Do you want a tissue?

19 A No, that's okay.

20 Q It shouldn't be emotional. We're
21 not at the important stuff yet.

22 A Okay.

23 Q In 2007, who did you work for?

24 A For Pave-Co, as well.

25 Q You worked there the whole year,

1 J. Vega Castillo

2 correct?

3 A Yes.

4 Q In 2008, who did you work for?

5 A I returned to Suffolk.

6 Q Did you get fired from Pave-Co?

7 A No.

8 Q Then, why did you get fired?

9 MR. MCNAMARA: Objection.

10 A Because there was -- they lost
11 many jobs, and they didn't have employment for
12 everyone.

13 Q In 2008, Suffolk Paving took you
14 back?

15 A Yes.

16 Q That was nice of them, right?

17 A Yes.

18 Q How much were you making an hour
19 in 2008?

20 A That was when they gave us the
21 union, they paid us union rates.

22 Q You got paid union rates for every
23 hour that you worked, right?

24 MR. MCNAMARA: Objection.

25 A Yes.

1 J. Vega Castillo

2 Q Do you know what the union rates
3 were?

4 A Yes. It was \$36 something.

5 Q Nice, right?

6 A No.

7 Q No, you weren't happy with that
8 amount?

9 A Yes.

10 Q In 2009, where did you work?

11 A In Suffolk Paving, as well.

12 Q Suffolk Paving?

13 A Yes.

14 Q You only worked for Suffolk Paving
15 in 2009, correct?

16 A Yes.

17 Q You only worked for Suffolk Paving
18 in 2008, correct?

19 A Yes -- no.

20 MR. MCNAMARA: Objection.

21 A Yes, from November 2008 -- no, I'm
22 not very sure. I'm a little confused.

23 Q In 2008, where would you have
24 worked?

25 A There, but I don't know until what

1 J. Vega Castillo

2 date.

3 Q "There," being what?

4 A In the same company.

5 Q What company is that?

6 A Suffolk Paving.

7 Q The only other company you would

8 have worked for in 2008, would have been

9 Pave-Co, right?

10 A Yes.

11 Q In 2007 and 2008, you only worked

12 for Pave-Co and Suffolk Paving?

13 A Yes.

14 Q Nobody else?

15 A No.

16 Q In 2009, you worked for Suffolk

17 Paving, correct?

18 MR. MCNAMARA: Objection.

19 A Yes.

20 Q Nobody else?

21 MR. MCNAMARA: Objection.

22 A No.

23 Q What's the paving season?

24 A From April to November.

25 Q That's every year, correct?

1 J. Vega Castillo

2 A Yes.

3 Q When you worked for Suffolk
4 Paving, you worked generally from April to
5 November, correct?

6 A Yes.

7 Q Did you ever collect unemployment
8 benefits?

9 MR. MCNAMARA: Objection.

10 A Yes.

11 Q When would you collect
12 unemployment benefits?

13 A When?

14 Q Yes.

15 A From December through March.

16 Q Of every year, correct?

17 A Yes.

18 Q When you worked for Suffolk
19 Paving, were you paid in cash or check?

20 A By check.

21 Q You got a check for every week you
22 worked, correct?

23 A Yes.

24 Q Did you ever receive cash?

25 A No.

1 J. Vega Castillo

2 Q Never?

3 A No.

4 Q Are you sure? You look confused.

5 A On some occasions that we would
6 work on a Saturday -- on some occasions, he paid
7 us cash.

8 Q So you did get some cash?

9 A Yes.

10 Q It's okay, you can say it. You're
11 not in trouble, not for that.

12 See, that's why it's important
13 that you don't lie to me. If I didn't read your
14 expression correctly, I wouldn't know that you
15 were withholding information from me, okay?

16 A Okay.

17 Q I want you to understand where
18 we're coming from here. It's very important
19 that you be honest with me.

20 Do you understand?

21 A Yes.

22 Q When I asked you before if you
23 only received payment by check and you said yes,
24 only check, you were lying to me?

25 MR. MCNAMARA: Objection.

1 J. Vega Castillo

2 A I was referring to only Monday
3 through Friday.

4 Q In essence, you were lying to me,
5 and I don't want you to do that.

6 MR. MCNAMARA: Objection.

7 Q Okay?

8 A Okay.

9 Q Do you want to apologize to me for
10 lying?

11 MR. MCNAMARA: Objection.

12 A It was not a lie. I was confused.

13 Q You were confused about the truth?

14 MR. MCNAMARA: Objection.

15 A We never worked Saturdays and that
16 is why I got confused.

17 Q How far away from your home are
18 you right now; ten minutes?

19 A No, more.

20 Q Bay Shore?

21 A Yes, twenty minutes.

22 Q Those pay stubs that you have at
23 your home, I'm going to need to see them. So I
24 think during lunch, we're going to send you home
25 to get those.

1 J. Vega Castillo

2 MR. MCNAMARA: Objection.

3 Q Okay?

4 MR. MCNAMARA: Objection.

5 Q This way, you won't have to come
6 back.

7 A I have to call my brother first.

8 Q No, Patrick will drive you. I
9 hear he's a very good driver.

10 MR. MCNAMARA: Counsel.

11 Q You see, I don't want to bring you
12 back another day and miss another day from work.

13 A No, please.

14 Q That's why I'm going to want you
15 to go and get those. They should have been
16 provided to me by your attorneys, but they
17 weren't. Okay?

18 MR. MCNAMARA: Counsel, can we
19 talk off the record for a moment?

20 MR. ZABELL: After he answers the
21 question.

22 A If I have to do it.

23 Q Yes, you do.

24 (Whereupon, a discussion was held
25 off the record.)

1 J. Vega Castillo

2 Q What is your brother's name?

3 A Nick.

4 Q Nick what?

5 A Vega Castillo.

6 Q You were talking about getting
7 checks for your pay at Suffolk Paving, except
8 for times when you would get cash, correct?

9 A Yes.

10 Q Would you get cash, in addition to
11 your checks?

12 MR. MCNAMARA: Objection.

13 A No.

14 Q But every week you got a check?

15 A My brother is calling me.

16 Q What is he calling you?

17 A Yes.

18 Q Do you need to get that?

19 A Yes.

20 Q Go ahead.

21 (Whereupon, a discussion was held
22 off the record.)

23 Q Every week that you worked for
24 Suffolk Paving, you got a check, correct?

25 A Yes.

1 J. Vega Castillo

2 Q Every week?

3 A If I worked, obviously.

4 Q In some weeks, in addition to your
5 checks, you would get cash, correct?

6 MR. MCNAMARA: Objection.

7 A When I worked on some Saturdays.

8 Q So some weeks, in addition to your
9 check, you would get cash?

10 A No.

11 MR. MCNAMARA: Objection.

12 Q You just said yes.

13 A When I worked a Saturday, not
14 every week.

15 Q Did you work a lot of Saturdays?

16 A No.

17 Q Basically, you worked 9:00 to
18 5:00, correct?

19 MR. MCNAMARA: Objection.

20 A Yes.

21 Q Every check that you got had a
22 little stub on it, correct?

23 A Yes.

24 Q That stub indicated the hours that
25 you worked, correct?

1 J. Vega Castillo

2 MR. MCNAMARA: Objection.

3 A Yes.

4 Q You got that every week, correct?

5 A Yes.

6 Q You checked it every week,

7 correct?

8 A Yes.

9 Q You got paid for every hour that
10 you worked, correct?

11 A No, that's the problem.

12 Q What pay stubs were missing hours?

13 A All of them.

14 Q Tell me one.

15 A All of the ones that I received
16 during the week.

17 Q Did you ever receive overtime pay?

18 A Sometimes.

19 Q You received overtime pay when you
20 worked overtime, correct?

21 A Not always.

22 Q But when you worked overtime, your
23 check would indicate that you got paid overtime,
24 correct?

25 MR. MCNAMARA: Objection.

1 J. Vega Castillo

2 A When he paid two or three hours,
3 it was there.

4 Q He wouldn't pay two or three
5 hours, unless you actually worked overtime?

6 MR. MCNAMARA: Objection.

7 A No.

8 Q No, I'm correct?

9 A That is true. But sometimes we
10 would work more than three.

11 Q And there were some weeks that you
12 didn't work any overtime?

13 A Of course.

14 Q Like a day like today, you
15 wouldn't be working in this, would you?

16 A No.

17 Q How did you get to work every day?

18 A At that time, I drove.

19 Q You drove yourself?

20 A Yes.

21 Q You had your own car?

22 A Yes.

23 Q Did you have a driver's license?

24 A At that time, I did.

25 Q Do you need to get that?

1 J. Vega Castillo

2 A Yes, please.

3 Q Go ahead.

4 (Whereupon, a discussion was held
5 off the record.)

6 Q When you drove to work, did you
7 drive anybody else to work?

8 A No.

9 Q You didn't give anybody else a
10 lift?

11 A No.

12 Q Did you ever drive directly to a
13 worksite?

14 A No.

15 Q Could you have?

16 A We never did, because they needed
17 me to help prepare everything that would be
18 needed for the job.

19 Q Who is the "they" that you're
20 referring to?

21 A I didn't understand.

22 Q You said, they needed me to
23 prepare everything?

24 A Yes.

25 Q Who was the "they" that you were

1 J. Vega Castillo

2 referring to?

3 A When I say "they," I'm talking
4 about the company.

5 Q Who in the company told you that
6 you couldn't drive to a worksite?

7 A Because we always had to go to the
8 yard.

9 Q What time would you get to the
10 yard?

11 A Whatever time they told me.

12 Q What time was that usually?

13 A Sometimes 5:00 a.m., 5:30, 6:00,
14 6:30.

15 Q You would be at the yard about
16 five or ten minutes before leaving, correct?

17 A Yes.

18 Q You would get a lift to the work
19 job site, correct?

20 A Yes.

21 Q Who would drive you?

22 A They would drive the box truck
23 where we all went.

24 Q Who would drive the box truck?

25 A At that time, Noe drove.

1 J. Vega Castillo

2 Q Lerly?

3 A Yes.

4 Q Lerly would drive you?

5 A He drove all of us that went
6 there.

7 Q Every morning after you left the
8 yard, you would go get egg sandwiches, right?

9 A Sometimes.

10 Q Sometimes or all the time?

11 A No, not always.

12 Q You know the box truck had a GPS
13 in it?

14 A Yes, of course.

15 Q That GPS would tell us the deli
16 that you would stop at.

17 MR. MCNAMARA: Objection.

18 Q Did you know that?

19 A Yes, I know that, but we wouldn't
20 always stop.

21 Q You would always stop.

22 MR. MCNAMARA: Objection.

23 A We would stop when we left from
24 the house to the yard, yes.

25 Q What do you mean when you left

1 J. Vega Castillo

2 from the house to the yard?

3 A When I would leave my house and go
4 to the Suffolk Paving yard, I would stop and buy
5 my coffee.

6 Q Everybody that has come in to
7 testify has come in and testified that every
8 morning after you leave the yard, you would go
9 get breakfast.

10 MR. MCNAMARA: Objection.

11 A Yes, sometimes that was true.

12 Q Sometimes or all the time?

13 A Sometimes, not always.

14 Q If they said it was all the time,
15 they would be lying?

16 MR. MCNAMARA: Objection.

17 A Maybe they did, because we would
18 sometimes leave in different groups.

19 Q If you always drove with Lerly,
20 and Lerly said that he went every day, either
21 he's lying or you're lying.

22 A I don't know what to say, but we
23 didn't stop every day.

24 Q Maybe you don't remember stopping?

25 A No, we wouldn't stop. I would

1 J. Vega Castillo

2 take my breakfast and lunch.

3 Q I thought you said you don't eat
4 breakfast.

5 A I would take it and sometimes I
6 would eat it and sometimes I wouldn't.

7 Q What would you eat?

8 A Everything.

9 Q What do you like to eat in the
10 morning?

11 A No, not in the morning. I eat
12 after 11:00.

13 Q After 11:00 every day?

14 A Not always, we didn't always have
15 a chance to eat.

16 Q So you didn't eat breakfast every
17 morning?

18 A I don't usually.

19 Q Do you drink coffee every morning?

20 A Yes. That, I do every day.

21 Q Would you stop to get coffee after
22 you left the shop?

23 MR. MCNAMARA: Objection.

24 A No, at that time, I had already
25 had it.

1 J. Vega Castillo

2 Q So when they stopped to get egg
3 sandwiches, you wouldn't get any more coffee?

4 MR. MCNAMARA: Objection.

5 A Sometimes, when I had the
6 opportunity.

7 Q What would you eat for lunch on
8 the job site?

9 A I would take rice, chicken,
10 tortilla, Hispanic food.

11 Q What about chicken cutlet?

12 A I love that.

13 Q I know, everybody loves that.

14 Sometimes someone would go to the
15 deli and get chicken cutlets for everybody,
16 right?

17 MR. MCNAMARA: Objection.

18 Q Who would go to the deli?

19 A Sometimes Edwin would go.

20 Q Edwin Rivera?

21 A Yes.

22 Q You trusted him with your money?

23 A Everyone.

24 Q Everybody trusted him with their
25 money?

1 J. Vega Castillo

2 A Maybe.

3 Q So he would go every day and pick
4 up lunch for everybody?

5 A No, not every day.

6 Q So you didn't eat lunch every day?

7 A No, sometimes we didn't have time.

8 Q You know, nobody else testified to
9 that, you're the only one testifying to that.

10 A Oh, really?

11 Q Really. Are they lying or are
12 you?

13 MR. MCNAMARA: Objection.

14 A Well, I don't know.

15 Q It could be either one, right?

16 A Maybe.

17 Q Did you ever keep a list of the
18 hours that you worked on a job?

19 A Yes. The attorney has copies of
20 that.

21 Q So you gave your attorney a list
22 of all the hours that you worked?

23 A No, not me personally. I don't
24 know who.

25 Q Who created the list?

1 J. Vega Castillo

2 A A list was created every day, the
3 foreman of the group.

4 Q Who was the foreman of your group?

5 A It was Renato.

6 Q Renato Guerra?

7 A Yes.

8 Q Or Maynor Fajardo?

9 A It's the same one.

10 Q He goes by both names, right?

11 A It's Fajardo.

12 Q It depends on which women are
13 looking for him, right?

14 A That's not my business.

15 Q I know it's not your business, but
16 it's true, right?

17 A I don't know.

18 Q Was Maynor Fajardo always your
19 supervisor?

20 A Yes.

21 Q What about when he was out of the
22 country tending to his mistress in Columbia?

23 A We were with Louis Vecchia's son.

24 Q So he was not always your
25 supervisor?

1 J. Vega Castillo

2 A It's obvious that he wasn't when
3 he wasn't here.

4 Q I know, but you said he was always
5 your supervisor, so stop lying to me, please.

6 A When he was working with me, he
7 was always my supervisor.

8 Q Except for the period of time that
9 he didn't work with you?

10 A Of course.

11 Q You knew he went away to see his
12 mistress in Columbia, correct?

13 A Yes.

14 Q You knew that he had borrowed
15 money from Louis Vecchia?

16 A No, I didn't know that.

17 Q You know that he had bought a
18 truck from Louis Vecchia?

19 MR. MCNAMARA: Objection.

20 A No, I didn't even care about that.
21 It's their business.

22 Q Do you know that Louis Vecchia
23 loaned him money to buy a house?

24 MR. MCNAMARA: Objection.

25 A Renato? No.

1 J. Vega Castillo

2 Q You don't know if that's true?

3 A No.

4 Q Do you know if he loaned anybody
5 money to buy a house?

6 A No. That is new to me, it's the
7 first time I heard it.

8 Q What about Mendez?

9 A No.

10 Q Did he ever lend you money?

11 A Who?

12 Q Louis Vecchia.

13 A No.

14 Q Did you ever ask him to lend you
15 money?

16 A No, never.

17 Q He always paid you though, right?

18 A Yes.

19 Q Every week that you worked, you
20 got a paycheck, right?

21 A Yes.

22 Q Every paycheck had the listing of
23 hours, correct?

24 MR. MCNAMARA: Objection.

25 A Yes.

1 J. Vega Castillo

2 Q There were weeks where you got
3 paid overtime, correct?

4 A Sometimes.

5 Q You always got paid prevailing
6 wage rates, correct?

7 A Yes.

8 Q So all in all, Suffolk Paving was
9 pretty good to you, right?

10 A Of course.

11 Q Louis Vecchia was a good man to
12 you?

13 A Yes.

14 Q Paid you a good living so you
15 could provide for your family?

16 MR. MCNAMARA: Objection.

17 A I appreciate that.

18 Q Do you have a family?

19 A Yes.

20 Q Are you married?

21 A No, I have a partner.

22 Q You have a partner?

23 A Yes.

24 Q Man, woman?

25 A A woman, of course.

1 J. Vega Castillo

2 Q It's not "of course." This is New
3 York, everything is okay. I don't judge. You
4 have nothing to be ashamed about with me.

5 What is your woman friend's name?

6 A Irma.

7 Q Irma what?

8 A Lopez.

9 Q Do you have any children with
10 Irma?

11 A One that is not mine.

12 Q So she had a child?

13 A Yes.

14 Q Do you have any children?

15 A No.

16 Q Either in this country or any?

17 A He's like my son.

18 Q Irma's son?

19 A Yes, Irma's son is like my son.

20 Q What's his name?

21 A Jason Lopez.

22 Q How old is Jason?

23 A Twelve.

24 Q Good boy?

25 A Excellent.

1 J. Vega Castillo

2 Q How long have you been with Irma?

3 A Going on eight years.

4 Q That's a long time.

5 A Yes.

6 Q She's a good woman?

7 A That's why I'm with her.

8 Q Does she ever yell at you a little
9 bit?

10 A Like all women.

11 Q All women yell at you?

12 A I've only had her.

13 Q I'm going to ask you a question.
14 It's important that you answer it honestly.

15 Did you ever tell Irma something
16 that was not entirely true?

17 A I have never told her lies.

18 Q Something that is not entirely
19 true; like you were working late when you were
20 really going out with a friend?

21 A Oh, no.

22 Q That you only had one beer when
23 you had three?

24 A No, because she knows that I am
25 not into that.

1 J. Vega Castillo

2 Q Did you ever tell her she looked
3 good in a pair of pants when she didn't look so
4 good? A little bit? You can tell us, I won't
5 tell her.

6 MR. MCNAMARA: Objection.

7 A No, I never said that to her.

8 Q Something like that, a little
9 white lie?

10 MR. MCNAMARA: Objection.

11 A I don't recall.

12 Q When you say you don't recall,
13 that means you probably did a little bit.

14 MR. MCNAMARA: Objection.

15 Q Right?

16 A Maybe kidding around sometimes.

17 Q Is your mom still alive?

18 A No.

19 Q I'm sorry. How old were you when
20 she passed away?

21 A Nineteen.

22 Q She was a good mom?

23 A She was mother and father for me.

24 Q She raised you right?

25 A Yes.

1 J. Vega Castillo

2 Q Did she ever yell at you?

3 A Like all mothers.

4 Q Did she ever punish you?

5 A Oh, a few.

6 Q Did you ever tell your mother
7 something that was not true so you didn't get
8 punished?

9 A No, I tried not to lie to her so
10 she wouldn't hit me.

11 Q But every now and then, you would
12 sneak a lie in, right, a little one?

13 A I don't recall.

14 Q Go ahead.

15 A She would yell at us if we told
16 lies.

17 Q Is your brother calling?

18 A Yes.

19 (Whereupon, a discussion was held
20 off the record.)

21 Q Do you want to break?

22 A Yes.

23 Q See you in about twenty minutes.

24 A No, I need more time.

25 (Whereupon, a recess was taken

1 J. Vega Castillo

2 from 1:03 p.m. to 2:35 p.m.)

3 Q Mr. Castillo, didn't you tell me
4 you had a ton of these, a ton of pay stubs at
5 home?

6 A You didn't tell me how many you
7 needed.

8 Q Are you saying you didn't bring
9 them all?

10 A No, but I only found these when I
11 went home to look.

12 Q I don't want you to defend
13 yourself. I just want you to answer my
14 questions, okay?

15 Do you remember when you were
16 testifying before that you said you had a lot of
17 pay stubs from Suffolk Paving at home? Do you
18 remember testifying to that; yes or no?

19 A Yes, I said that.

20 Q Do you still have a lot of those
21 pay stubs at home?

22 A Yes.

23 Q Yes or no?

24 A Yes.

25 Q Because you only brought me back

1 J. Vega Castillo

2 three.

3 A Can I say something?

4 Q No, you can't. You have to answer
5 my questions. You only brought back three. Are
6 there some still at your house; yes or no?

7 A I am moving and I don't know where
8 they are.

9 Q You no longer have them, you
10 destroyed them?

11 MR. MCNAMARA: Objection.

12 A No, I haven't destroyed them. I
13 do have them but I didn't find them, I'm moving.

14 MR. ZABELL: You're going to find
15 them, and we're going to have to come
16 back for another day of deposition,
17 because you didn't bring them back with
18 you.

19 MR. MCNAMARA: Objection.

20 Q That's what you were trying to
21 avoid, sir. You understand that, right? Unless
22 you can have someone bring it to us before the
23 end of the day.

24 A No, because I didn't find myself,
25 so...

1 J. Vega Castillo

2 Q I'm trying very hard not to have
3 you lose another day of work, because my client,
4 Louis Vecchia, told me I should be very nice to
5 you.

6 A I appreciate that, but I can't do
7 anything else for now. I don't know where they
8 are, nor do I want to come back another day.

9 Q But you understand that because
10 you withheld those documents, you have to come
11 back another day?

12 MR. MCNAMARA: Objection.

13 Q Correct?

14 A Can I send them with someone else?

15 Q No, because I have to ask you
16 about them. Okay?

17 A I don't have the time that you
18 have to come every time that (sic)...

19 Q I know, that's why I'm trying to
20 be respectful of your time.

21 A I don't have them with me. I have
22 to look. I don't even know how many I have.

23 Q Do you want to reschedule another
24 date now for you to come back?

25 A No, I don't want to come here

1 J. Vega Castillo

2 another day.

3 Q Try to get these documents for me
4 today.

5 A I can't. I don't have other
6 people's time available for me.

7 Q You're going to end up coming
8 back, because you concealed those documents.

9 MR. MCNAMARA: Objection.

10 Q The other way out is for you to
11 say you no longer want to be involved in this
12 lawsuit.

13 MR. MCNAMARA: Objection.

14 A Just because of that?

15 Q Yes. That is your option, sir.

16 A I can't throw away my years of
17 working just because of that.

18 Q Then, you will have to come back.
19 Do you want to come back next week?

20 A I can just drop that off and I can
21 leave.

22 Q No. Then, I'm going to have to
23 question you about each document.

24 A Another full day here?

25 Q Not a full day, just long enough

1 J. Vega Castillo

2 to go through each document. That is why your
3 lawyer should have told you to produce those
4 documents.

5 Didn't they tell you that?

6 A No.

7 Q They did you a tremendous
8 disservice, sir.

9 MR. MCNAMARA: Objection.

10 Q Apparently, they don't value your
11 time like I do. Well, we will reschedule before
12 the conclusion of this deposition, but in the
13 meantime, I know you're upset, but I want to go
14 forward and continue questioning you.

15 Is that okay?

16 A But if we're going to continue
17 today, I have to come back another full day?

18 Q Not a full day, but another day so
19 I can go through the documents that you didn't
20 provide today. Your attorney should have
21 explained that to you.

22 MR. MCNAMARA: Objection.

23 Q And I apologize for them because
24 they didn't.

25 A Next week, I won't be living in

1 J. Vega Castillo

2 this area. I'm going to be moving. It's going
3 to be more difficult to come.

4 Q We will have to blame your
5 attorneys for that.

6 MR. MCNAMARA: Objection.

7 Q Maybe they would want to adjust,
8 make arrangements for a car to pick you up and
9 drop you off, okay?

10 I know you're upset, but I have to
11 continue questioning you, okay?

12 A Okay.

13 (Jose Vega Castillo's union
14 identification was marked as Defendants'
15 Exhibit 1 for identification, as of this
16 date.)

17 Q Mr. Castillo, I'm going to show
18 you a document marked as Defendants' Exhibit 1
19 with today's date.

20 Do you know what that document is?

21 A No.

22 Q Yes, you do.

23 A This one here (indicating).

24 Q No, don't look at the label. Look
25 at what's on the sheet.

1 J. Vega Castillo

2 A Oh, this, of course.

3 Q What is it?

4 A That was my union ID.

5 Q Right. That's a document that you
6 gave to me this morning, the only document you
7 have that assists me in knowing who you are,
8 correct?

9 A Yes.

10 Q It's your ID card, correct?

11 A Yes.

12 Q Or a copy of it, correct?

13 A Yes.

14 Q That is what you look like now,
15 correct?

16 A Yes.

17 Q Except now you look a little more
18 upset than you do here.

19 Do you want to take a minute?

20 A No, I need to finish with this.

21 Q I know, but unfortunately, because
22 your attorneys didn't give you enough
23 information, we're not going to finish today.

24 MR. MCNAMARA: Objection.

25 Q Again, I'm very sorry they didn't

1 J. Vega Castillo

2 explain to you.

3 (Jose Vega Castillo's three check
4 stubs were marked as Defendants' Exhibit
5 2 for identification, as of this date.)

6 Q I'm showing you a document that I
7 just identified as Exhibit 2 with today's date.

8 Do you know what that is?

9 A Yes, it's one of my check stubs.

10 Q How many check stubs are there,
11 total, in that packet?

12 A Three.

13 Q Is that how many you have in your
14 hand?

15 A Yes.

16 Q Is that how many you brought back
17 with you today during the extended lunch break;
18 yes or no?

19 A (No verbal response.)

20 Q Sir?

21 A No, it doesn't look like it.

22 Q It doesn't look like what?

23 A Yes, this is, this one
24 (indicating).

25 Q Turn the page.

1 J. Vega Castillo

2 A (Complying.) Yes, it's this one.

3 Q Turn the page.

4 A (Complying.) Yes.

5 Q Defendants' Exhibit 2 with today's
6 date is just a photocopy of the three check
7 stubs that you brought back with you from lunch?

8 A Yes.

9 Q It's a completely accurate
10 photocopy, right?

11 A They're not the same or what?

12 Q I'm asking you if they're the
13 same.

14 A They look the same to me.

15 Q Because before you said it was not
16 the same, and you were incorrect when you said
17 that?

18 MR. MCNAMARA: Objection.

19 Q Correct?

20 A I have to look to see what I'm
21 doing first, because you showed my friend some
22 check stubs that weren't his.

23 Q That is not true.

24 A So I don't want you to trick me.

25 Q Which friend said I showed him

1 J. Vega Castillo

2 check stubs that were not his?

3 A Juan Quinteros said that Louis
4 Vecchia had some of these that were not the
5 hours.

6 Q Juan Quinteros is a liar.

7 A Well, I don't know. I don't want
8 to make any mistakes.

9 Q I don't want you to make any
10 mistakes. That's why I gave you the document, a
11 photocopy of the three pay stubs that you gave
12 me, correct?

13 A Yes, that is what it looks like.

14 Q It's an exact copy, right? If
15 you're not sure, take your time to figure it
16 out. We're all here on your nickle.

17 I know you're upset, because your
18 lawyers told you bad information, but don't take
19 it out on me.

20 MR. MCNAMARA: Objection.

21 MR. ZABELL: Counsel, do you want
22 him to continue to flounder?

23 MR. MCNAMARA: It appears, marked
24 as Exhibit 2, are, in fact, true and
25 accurate copies of the pay stubs.

1 J. Vega Castillo

2 A Yes, it's the same thing.

3 Q Are you sure?

4 A Yes.

5 Q Do you want to apologize to me for
6 accusing me of doing something wrong?

7 A Oh, my God. If you just took
8 copies of that, why are you asking me if it's
9 correct or not? If it's a copy, it has to be
10 the same.

11 Q I want to make sure you say on the
12 record that it's the same. It's not your job to
13 ask me why I ask my questions. It's your job to
14 answer my questions. Okay?

15 A Okay.

16 Q So it's the same exact copy,
17 right?

18 A Yes.

19 Q And I copied all of the documents
20 you brought back to me over lunch, correct?

21 A Okay, yes.

22 Q When you said to me that you had a
23 lot of pay stubs back at home, you were not
24 completely accurate, correct?

25 MR. MCNAMARA: Objection.

1 J. Vega Castillo

2 A I don't know exactly how many I
3 have, but I do have more than these.

4 Q You have three that you brought
5 that are embodied in Defendants' Exhibit 2, but
6 you did not bring them back today?

7 A No.

8 Q Your lawyers never asked you for
9 them, correct, yes?

10 A Yes, but they didn't use them all.

11 Q You gave them all of them and they
12 said, I only need some of them?

13 MR. MCNAMARA: Objection.

14 A No, he said just as proof that
15 it's Suffolk Paving.

16 Q So your lawyers never asked you to
17 provide all of those documents to them?

18 A We haven't gotten that far yet.

19 Q Oh, you haven't? You know you're
20 supposed to have.

21 A He looked at my taxes. He looked
22 at the union book that I have. Some of these,
23 he has not told me to bring all of them from the
24 beginning up to now.

25 Q I'm telling you now, sir, you need

1 J. Vega Castillo

2 to bring every one of those stubs that you have
3 to that man over there. Look at him so you know
4 I'm talking about the same person.

5 A Yes.

6 Q What is his name?

7 A Patrick.

8 Q Right, Patrick. You're going to
9 give those documents to Patrick and he's going
10 to turn those over to me.

11 Once I get those documents back,
12 you're going to come here for another day of
13 depositions.

14 And if anybody is to blame, it's
15 your lawyers. Okay?

16 A Okay.

17 Q I believe you testified that you
18 never got more than one or two hours of overtime
19 in a week, correct?

20 A No, I did receive it sometimes. I
21 said it before.

22 Q Right. But you said you never got
23 more than two or three hours of overtime,
24 correct?

25 A But I would work more than that.

1 J. Vega Castillo

2 Q You agree you never received more
3 than two or three hours of overtime in a week,
4 correct?

5 A Sometimes it could be three or
6 four, sometimes nothing. It was not the same
7 hours all the time.

8 Q I'm going to ask you to look at
9 the second page of Defendants' Exhibit 2.

10 A (Complying.)

11 Q How many hours of overtime does it
12 show that you received that week?

13 A (Reviewing document.) Here it
14 says forty regular and five overtime.

15 Q Right. Five hours overtime, not
16 one or two, not or three or four.

17 A I said five.

18 Q No, you never said five. So you
19 lied to me?

20 MR. MCNAMARA: Objection.

21 A You don't understand is that when
22 they paid me forty regular and five overtime, I
23 had worked about fifty-five or fifty hours.

24 Q I don't believe you. Could you
25 tell me where you worked for the week of

1 J. Vega Castillo

2 September 17th of 2009?

3 A No.

4 Q Tell me where you worked overtime.

5 A I would work overtime hours every
6 week wherever I went.

7 Q Tell me where you worked overtime
8 for the week of September 17th.

9 A Sir, how can I know that?

10 Q You're supposed to remember,
11 because that is what you're suing for.

12 A These are the copies that I have.

13 Q Where did you work overtime the
14 week of October 8, 2009?

15 A I can't remember wherever I went
16 and what I did. This is the proof that I have,
17 it should be enough.

18 Q The week of October 8, 2009, did
19 you work forty hours that week?

20 A If it says there on the check
21 stub, yes.

22 Q Do you remember working forty
23 hours that week?

24 A Of course.

25 Q You do. I'm going to ask you to

1 J. Vega Castillo

2 take a look of the very first page of
3 Defendants' Exhibit 2.

4 How many hours did it say you
5 worked that week?

6 A (Reviewing document.) I don't
7 even know how to read this, because I don't
8 understand much. It only says how much they
9 paid me per hour.

10 Q It does not show how many hours
11 you worked?

12 A Maybe it does, but I don't really
13 understand.

14 Q That's fine, put it back down.

15 You were able to see that you got
16 five hours of overtime. Do you remember that?

17 A Yes, the previous one.

18 Q Do you know how to read your pay
19 stubs or no?

20 A This one is different from this
21 one (indicating). It's more specific here.

22 Q That is a wonderful answer. It is
23 not the answer to the question that I asked you.

24 Do you know how to read your
25 paycheck?

1 J. Vega Castillo

2 A Some things.

3 Q Did you go to school, either in
4 this country or in your country?

5 A Not much. I was a poor person.

6 Q Do you know how to read?

7 A So-so.

8 Q Do you know how to read your
9 paychecks?

10 A I said some things already. For
11 example, my hours, how many they pay me.

12 Q Every paycheck showed your hours,
13 correct?

14 MR. MCNAMARA: Objection.

15 A Yes.

16 Q Every check indicated how much per
17 hour you were getting, correct?

18 MR. MCNAMARA: Objection.

19 A Yes.

20 Q You're only suing here, my client,
21 because you believe that there were hours over
22 forty hours worked where you're owed overtime,
23 correct?

24 MR. MCNAMARA: Objection.

25 A We would fill out a paper in the

1 J. Vega Castillo

2 morning with our name, where we were going, and
3 what time we returned to the yard.

4 Q Who filled that out?

5 A The foreman of the group.

6 Q So you never filled that out?

7 A I was not supposed to do it.

8 Q So you don't --

9 A It wasn't --

10 Q Hey, listen to me. You never
11 filled it out?

12 A It was one paper.

13 Q Just answer my questions, okay?

14 Don't feel the need to explain yourself. That
15 is what you have an attorney for. Okay?

16 You're getting upset. There is no
17 need for it. They didn't prepare you well for
18 this, I understand.

19 Listen, can you just answer my
20 questions?

21 A Okay.

22 Q Would it help if I gave you a
23 piece of chocolate?

24 A No, thank you.

25 Q Would you like a cup of coffee?

1 J. Vega Castillo

2 A No.

3 Q Water?

4 A No, I'm fine.

5 Q You're only suing because you
6 believe that you're entitled to overtime hours;
7 yes or no?

8 A Yes, of course.

9 Q You know that you're only entitled
10 to overtime hours for hours worked over forty in
11 a work week, correct?

12 A I understand that.

13 Q The first forty hours of every
14 work week, you were paid correctly; yes or no?

15 A No.

16 Q So you're saying that there are
17 times that you didn't get paid for regular hours
18 that you worked?

19 A Yes. They didn't pay me, because
20 I worked forty hours and they would pay me
21 thirty-five. When I did thirty-five, they paid
22 me twenty-five or twenty-eight, around there.

23 Q You know that is different than
24 what you testified earlier about today?

25 A No.

1 J. Vega Castillo

2 Q Yes, it is. You're claiming to
3 have not gotten paid overtime. You said very
4 clearly that this lawsuit is only about overtime
5 hours.

6 Are you changing that?

7 A Yes, they didn't pay me overtime.

8 Q Are you changing your testimony
9 from this morning?

10 A No, here is the proof
11 (indicating).

12 MR. ZABELL: Let the record
13 reflect that the deponent was picking up
14 the three pay stubs that are identified
15 for Defendants' Exhibit 2 of today's
16 date.

17 Q Sir, you said this morning that
18 you're only suing for overtime hours. Do you
19 remember that?

20 A Yes.

21 Q Is that true or false?

22 A It's true.

23 Q So you're only suing for overtime
24 hours?

25 MR. MCNAMARA: Objection.

1 J. Vega Castillo

2 Q Correct?

3 A How can I explain it to you?

4 Q Just by answering yes or no. I
5 don't want an explanation.

6 You're only suing for overtime
7 hours, correct?

8 MR. MCNAMARA: Objection.

9 A Yes.

10 Q You understand that you're only
11 entitled to receive overtime after you work
12 forty hours in a week?

13 A Yes.

14 Q Do you know that employers are
15 entitled to take out your lunch breaks, correct?

16 A Of course.

17 Q They're allowed to take out for
18 your breakfast breaks too?

19 A If I use it, why not?

20 Q So you agree, correct?

21 A Of course, but we never had that
22 time.

23 Q You never kept any records of the
24 hours that you worked?

25 A No, because --

1 J. Vega Castillo

2 Q Not because.

3 Is your answer yes or no?

4 A No.

5 Q You don't know the specific jobs
6 that you worked on, correct?

7 A No.

8 Q You don't know the specific hours
9 you worked on each job, correct?

10 A Correct.

11 Q Do you understand what I'm getting
12 at here?

13 A Yes.

14 Q There were weeks were you worked
15 overtime, and your paycheck reflected that you
16 were paid for those overtime hours; is that
17 correct?

18 A Yes.

19 Q Every week you got a paycheck,
20 correct?

21 A Yes.

22 Q Some weeks, in addition to your
23 paycheck, you would get paid cash, correct?

24 A Some Saturdays that I worked, yes.

25 Q You traditionally worked Monday to

1 J. Vega Castillo

2 Friday, 9:00 to 5:00, correct?

3 MR. MCNAMARA: Objection.

4 A Yes.

5 Q On occasion, when you worked a
6 Saturday, you would get paid in cash for that
7 Saturday, correct?

8 A Yes, on some occasions.

9 Q When you worked on prevailing wage
10 jobs, you got paid prevailing wage rates,
11 correct?

12 A Yes.

13 Q You always got your prevailing
14 wage pay when you did prevailing wage work,
15 correct?

16 A Yes.

17 Q That Louis Vecchia treated you
18 well, correct?

19 A Yes.

20 Q He always treated you fairly,
21 correct?

22 A I felt that he did, yes.

23 Q Yet, you're still suing him,
24 correct?

25 MR. MCNAMARA: Objection.

1 J. Vega Castillo

2 Q Even though he treated you fairly,
3 correct?

4 MR. MCNAMARA: Objection.

5 A I am claiming my rights, that is
6 it.

7 Q You're absolutely right, everybody
8 has a right to sue.

9 MR. MCNAMARA: Objection.

10 Q The company that you're working at
11 now, is it in the union?

12 A No, but they're in the process.

13 Q Are you in the union?

14 A No. Because since I didn't have
15 work with Suffolk Paving, I had to cancel
16 everything.

17 Q So they revoked your union card,
18 correct?

19 MR. MCNAMARA: Objection.

20 A Because I didn't pay.

21 Q You're upset about being out of
22 the union, right?

23 MR. MCNAMARA: Objection.

24 A No.

25 Q You're not upset about being out

1 J. Vega Castillo

2 of the union?

3 A Of course, I am.

4 Q How much are you getting paid an
5 hour now?

6 A \$20.

7 Q Not nearly as much as you were
8 making when you were working at Suffolk Paving,
9 correct?

10 A Yes.

11 Q Does that bother you?

12 A Yes, because my family needs me.

13 Q Do they need you or do they need
14 your money?

15 A Both things.

16 Q They had those things when you
17 worked for Suffolk Paving, correct? They had
18 you and your money?

19 A They still have me and they still
20 have my money.

21 Q So you're not missing out on
22 anything?

23 MR. MCNAMARA: Objection.

24 A We need everything in life.

25 Q You're willing to do anything to

1 J. Vega Castillo

2 get anything, correct?

3 MR. MCNAMARA: Objection.

4 A No.

5 Q You're willing to lie a little
6 bit, correct?

7 MR. MCNAMARA: Objection.

8 A No.

9 Q You never lied a little bit?

10 A Not that I recall.

11 Q Do you ever use a false Social
12 Security number?

13 A No.

14 MR. MCNAMARA: Objection.

15 Q [REDACTED]

16 [REDACTED]

17 A [REDACTED].

18 Q [REDACTED]

19 A [REDACTED]

20 Q [REDACTED]

21 A [REDACTED].

22 Q [REDACTED]

23 MR. MCNAMARA: Objection.

24 A [REDACTED]

25 [REDACTED]

1 J. Vega Castillo

2 Q That was nice of her.

3 MR. MCNAMARA: For the record, I
4 would like all questions and answers
5 arriving therefrom regarding the witness'
6 Social Security and any questions
7 concerning cash payments be marked as
8 confidential pursuant to the agreement.

9 Q [REDACTED]

10 [REDACTED]

11 A [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 Q [REDACTED]

15 MR. MCNAMARA: Objection.

16 A [REDACTED]

17 Q [REDACTED]

18 [REDACTED]

19 A [REDACTED]

20 [REDACTED]

21 Q [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 MR. MCNAMARA: Objection.

25 Q We know, it's okay.

1

J. Vega Castillo

2

A

3

Q

4

5

MR. MCNAMARA: Objection.

6

Q

Is that what you're saying?

7

A

8

9

Q

10

A

11

Q

12

13

A

14

Q

15

A

16

17

Q

18

A

19

Q

Have you ever been arrested?

20

A

Yes.

21

Q

When?

22

A

Last year.

23

Q

What were you arrested for?

24

MR. MCNAMARA: Objection.

25

A

For drinking and driving.

1 J. Vega Castillo

2 Q [REDACTED]

3 A [REDACTED]

4 Q [REDACTED]

5 A [REDACTED].

6 Q Is that the only time you were
7 arrested here?

8 A Yes. And I hope no more.

9 Q Why were you drinking and driving?

10 A It's a stupid thing that could
11 happen to anyone.

12 Q Not anybody.

13 MR. MCNAMARA: Objection.

14 A That's good.

15 Q Did you drive because you needed
16 to get home?

17 MR. MCNAMARA: Objection.

18 A Yes.

19 Q So it was okay to break the law
20 because you needed to get home, right?

21 A Absolutely wrong.

22 Q What's going on with the charges
23 of drunk driving now?

24 A I'm on probation.

25 Q So you admitted breaking the law,

1 J. Vega Castillo

2 correct?

3 A Of course, I asked the authorities
4 for forgiveness.

5 Q What did they say?

6 A [REDACTED]
7 [REDACTED]

8 Q What do you mean by that?

9 A [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 Q [REDACTED]

15 A [REDACTED]

16 Q [REDACTED]

17 A [REDACTED].

18 Q You're sure?

19 A Do you think I'm lying?

20 Q Yes.

21 A That's bad.

22 Q That's why I'm asking you: Are
23 you sure?

24 A Of course, yes.

25 Q You're absolutely positive

1 J. Vega Castillo

2 July 2009, correct?

3 A Yes, July 26, 2009 -- I mean 24th.

4 Q July 24th of 2009?

5 A Yes.

6 Q You're absolutely positive?

7 MR. MCNAMARA: Objection.

8 A Yes.

9 Q Hand to Jesus?

10 A Two (indicating).

11 MR. ZABELL: Let the record
12 reflect that the deponent is raising both
13 of his hands, he's absolutely positive.

14 Q You're sure?

15 A Yes, I have -- I'm positive that
16 it was July 24th.

17 Q Of what year?

18 A 2009.

19 Q If you say so, sir. I'm going to
20 take a break now. Is that all right with you?

21 A What can I do?

22 Q You can tell me to enjoy my break.

23 A Enjoy it.

24 (Whereupon, a recess was taken
25 from 3:22 p.m. to 3:33 p.m.)

1 J. Vega Castillo

2 Q Do you understand why I didn't
3 believe you before?

4 A No, I don't know why.

5 Q He'll explain it to you later,
6 okay?

7 You testified that from 2002 to
8 2009, you either worked for Suffolk Paving or
9 Pave-Co, correct?

10 A Yes.

11 Q You never worked for any other
12 companies?

13 A No.

14 Q Who was your boss at Suffolk
15 Paving?

16 A The owner or the one in charge.

17 Q Who was the owner?

18 A Louis Vecchia.

19 Q Who was the one in charge?

20 A There were two people in the time
21 that I worked there.

22 Q Who?

23 A Steven and Tommy.

24 Q Were either one of them owners?

25 A No.

1 J. Vega Castillo

2 Q Who is the owner of Suffolk
3 Paving?

4 A Louis Vecchia.

5 Q He is the only person that is the
6 owner?

7 A Maybe his wife, his son.

8 Q Why do you say that?

9 A Because I see her in the office.

10 Q You see lots of people in the
11 office, right?

12 A That's what I think and it doesn't
13 matter to me, either.

14 Q Do you think that she's an owner
15 only because you see her in the office?

16 A No.

17 Q Why do you think she's an owner?

18 A It's his wife.

19 Q You think just because she's his
20 wife, she's an owner?

21 A It's just something that I say.

22 Q So you have no reason to believe
23 that she's an owner?

24 A Okay.

25 Q I'm asking you; yes or no?

1 J. Vega Castillo

2 A No.

3 Q No, you have no reason to believe
4 she's an owner?

5 A I only said it because it's his
6 wife.

7 Q Do you have any reason to believe
8 that Chris Vecchia is an owner?

9 A No.

10 Q Do you know if Chris Vecchia is an
11 owner?

12 A He is.

13 Q How do you know?

14 A Because he's the owner of all that
15 machinery.

16 Q How do you know?

17 A Just because of that.

18 Q (Counsel speaking Spanish.)

19 A Because he's the one that's
20 involved with all of that.

21 Q Does he wear a hat that says, I'm
22 the boss?

23 A No, but he's the one that tells us
24 where to go, what to do, how much to do.

25 Q I thought that was Maynor Fajardo.

1 J. Vega Castillo

2 A No.

3 Q You told me before that Maynor
4 Fajardo did that.

5 A He's the foreman of the group.

6 Q He used to tell you where to go
7 and what to do?

8 A Louis would tell Renato and Renato
9 would tell us.

10 Q How do you know that Louis would
11 tell Renato?

12 A They would speak in front of us.

13 Q But you don't understand English?

14 A He speaks English and Spanish to
15 Renato, and Renato would tell us.

16 Q So you don't know what Lou would
17 tell Renato, but you do know what Renato would
18 tell you?

19 A I understand some things.

20 Q Do you know what a canoe is?

21 A Yes.

22 Q Yes, what?

23 A Yes, I know.

24 Q Yes, you know what?

25 A What a canoe is.

1 J. Vega Castillo

2 Q What is a canoe?

3 A To use in the water.

4 Q Is it a boat?

5 A Similar.

6 Q Did you ever use a canoe at work?

7 A No.

8 Q Did you ever use a kayak at work?

9 A No.

10 Q Do you know what a kayak is?

11 A Yes.

12 Q Yes, what?

13 A Yes, I know what it is.

14 Q You know what what is?

15 A Yes, I know what a kayak is.

16 Q Did you ever use a kayak at work?

17 A No.

18 Q Do you know what is soccer ball

19 is?

20 A Yes, and I do it often.

21 Q You do what often?

22 A Play soccer.

23 Q Do you ever play soccer at work?

24 A One time.

25 Q Only once?

1 J. Vega Castillo

2 A I remember that I did.

3 Q Maybe more than once?

4 A No.

5 Q Because all of your colleagues say
6 once or twice.

7 A Because I don't remember if it was
8 once or twice, but not more than twice.

9 Do you want me to explain why?

10 Q No.

11 Whose soccer ball did you play
12 with?

13 A I don't know who took it.

14 Q One of your coworkers, right?

15 A Probably.

16 Q Did you ever play baseball?

17 A No, I don't like it.

18 Q Did you ever do handy jobs?

19 A No.

20 Q Did you ever do construction work?

21 A No.

22 Q Did you ever put up aluminum
23 siding?

24 A No.

25 Q Do you know what aluminum siding

1 J. Vega Castillo

2 is?

3 A Yes, aluminum siding.

4 Q You never put that up?

5 A No, I have worked doing other
6 things.

7 Q Like what?

8 A Paving, cement, putting up fences,
9 demolition, just that.

10 Q Did you ever do any side work?

11 A No.

12 Q Did you ever do some work for a
13 friend and get paid on the side?

14 MR. MCNAMARA: Objection.

15 A No.

16 Q Do a driveway on the side outside
17 of work?

18 MR. MCNAMARA: Objection.

19 A No.

20 Q For your mother-in-law?

21 A I don't have a mother-in-law.

22 Q If you did have a mother-in-law,
23 would you do work for her?

24 MR. MCNAMARA: Objection.

25 A Of course, why not?

1 J. Vega Castillo

2 Q Maybe you won't like her.

3 A That is something different.

4 Q So even if you don't like her, you
5 would still do the work for her?

6 A All of that has to do with this
7 situation?

8 Q You would be surprised.

9 Who was nicer to you; Maynor
10 Fajardo or Louis Vecchia?

11 A In what way?

12 Q In being fair and truthful with
13 you.

14 A I don't know. Renato had no
15 reason to be nice to me, he was an employee like
16 me.

17 Q So Renato wasn't nice to you?

18 A Yes, he was.

19 Q Was he as nice as Louis Vecchia,
20 or was Lou nicer?

21 A Louis sometimes was very nice.

22 Q So Louis was nicer than Maynor,
23 right?

24 A Maybe.

25 Q Well, not maybe, yes or no?

1 J. Vega Castillo

2 A Yes.

3 Q Lou always treated you fairly,
4 correct?

5 A Who?

6 Q Lou always treated you fairly,
7 right?

8 A Sometimes.

9 Q You said before he always treated
10 you fairly. Are you challenging your testimony?

11 A No, I'm not challenging what I
12 said.

13 Q Every week you worked for Suffolk
14 Paving, you got a paycheck?

15 A Yes.

16 Q Those paychecks showed the hours
17 you worked, correct?

18 MR. MCNAMARA: Objection.

19 A Yes.

20 Q When you worked overtime, you got
21 paid overtime, correct?

22 A Sometimes.

23 Q You're only suing for overtime
24 hours?

25 A Yes.

1 J. Vega Castillo

2 Q You regularly worked Monday
3 through Friday, 9:00 to 5:00, correct?

4 MR. MCNAMARA: Objection.

5 A Not 9:00 to 5:00.

6 Q That is what you testified to
7 before.

8 A You never mentioned 9:00 to 5:00.

9 Q You testified to it on two
10 separate occasions.

11 A But in what company do they start
12 working at 9:00 a.m.?

13 Q You don't understand, it's your
14 job to just answer the questions. You answered
15 that question twice before. If you don't
16 believe me, ask your attorney. Go ahead, ask
17 him.

18 A I said I started at 5:30 or 6:30.
19 You're good at confusing me.

20 Q You're good at getting confused.
21 You testified before that you got
22 paid for all regular hours that you worked. Do
23 you remember that?

24 A Yes.

25 Q That is true, correct?

1 J. Vega Castillo

2 A Yes.

3 Q That you're only looking for
4 overtime hours?

5 A Yes.

6 Q You would only be entitled to
7 overtime hours if you worked more than forty
8 hours in a week, correct?

9 A Yes.

10 Q You didn't always work more than
11 forty hours in a week, correct?

12 A Yes.

13 Q On certain weeks, there would be
14 rain, like there is today?

15 A Yes. I would stay home during
16 that time.

17 Q How much are you looking for in
18 this lawsuit?

19 A I'm not looking for -- I'm just
20 looking for the work that I didn't get paid for,
21 my hours.

22 Q How many hours?

23 A I don't have an exact amount.

24 Q Do you have an idea how many
25 hours?

1 J. Vega Castillo

2 A No, they're a lot.

3 Q How many; two, three, four?

4 A I don't know exactly.

5 Q Do you know, roughly?

6 A I don't know exactly, because I
7 would work more than ten hours every day, but he
8 would give me a check for eight hours a day.

9 Q So your checks all said
10 eight hours a day?

11 MR. MCNAMARA: Objection.

12 Q Yes or no?

13 A No, not all of them.

14 Q So your checks would say forty
15 hours a week; yes or no?

16 MR. MCNAMARA: Objection.

17 A But I worked fifty.

18 Q What week did you work fifty
19 hours? Because it was not every week.

20 A Of course not.

21 Q What weeks did you work fifty
22 hours?

23 A When I would work from Monday
24 through Friday.

25 Q But what if it rained that week?

1 J. Vega Castillo

2 A It didn't rain in every one.

3 Q It rained in some and not in
4 others. Tell me the weeks that you worked where
5 it didn't rain and you know you worked fifty
6 hours.

7 A It's difficult to remember all of
8 that.

9 Q I know it's difficult, take your
10 time, I won't rush you out.

11 A I don't know exactly.

12 Q Tell me, roughly.

13 A I can't lie to you, either.

14 Q Tell me, approximately.

15 A We worked those days in the months
16 that it rained a little.

17 Q How much are you looking for in
18 this lawsuit?

19 MR. MCNAMARA: Objection.

20 Q A dollar, \$2, \$3, \$4?

21 A What the law thinks is the right
22 thing.

23 Q How much is that?

24 A I have no idea.

25 Q I know you have no idea. Can we

1 J. Vega Castillo

2 both agree that you have no idea how much you're
3 owed; yes or no?

4 A Yes.

5 MR. MCNAMARA: Objection.

6 Q Can we both agree that you have no
7 idea how to figure out what you're owed?

8 MR. MCNAMARA: Objection.

9 A By the years that I worked there.

10 Q Great. Tell me how much you're
11 owed for the year 2009.

12 A I have no idea.

13 Q I know you have no idea. That is
14 why I asked you to admit it before.

15 A Why are you asking me?

16 Q I need you to say it for the
17 record, otherwise I get accused of not doing my
18 job, right?

19 A Well...

20 Q It's like you going out to put
21 down asphalt and not putting down asphalt. I
22 have to put down my asphalt. Some people might
23 say I need to kick some asphalt.

24 So you have no idea how to even
25 calculate per year, correct?

1 J. Vega Castillo

2 A No.

3 Q No, I'm not correct, or no, I am
4 correct?

5 A I don't know what to say.

6 Q You don't know what to say because
7 you don't know how to calculate it, correct?

8 A Of course.

9 Q Of course, I'm correct, right?

10 A Maybe.

11 Q Do you have any questions for me?

12 A No. I only like to say that
13 you're here to defend him, and that's why you're
14 asking me a thousand questions.

15 Q We all know that. That is my job.

16 A Okay.

17 Q Was it as bad as they warned it
18 would be?

19 A More or less.

20 Q I thought I was very nice to you.

21 A Yes.

22 Q Look. I asked you the question:
23 Did you get a paycheck for every week you
24 worked, and you said what?

25 MR. MCNAMARA: Objection.

1 J. Vega Castillo

2 A Of course, that is what we worked
3 for.

4 Q Some weeks you would get cash; yes
5 or no?

6 A No.

7 Q Eh-eh, no lying.

8 A Saturday, one or two a year.

9 Q Right. So sometimes, in addition
10 to your check, you would get cash, right?

11 A Yes.

12 Q So stop lying.

13 MR. MCNAMARA: Objection.

14 Q That all of your paychecks showed
15 the hours that you worked?

16 A Yes, here (indicating).

17 Q You got paid for all of the
18 straight time hours that you worked?

19 A Yes.

20 Q That you're only suing for
21 overtime?

22 A Yes.

23 Q You didn't always work more than
24 forty hours a week, correct?

25 A Yes.

1 J. Vega Castillo

2 MR. MCNAMARA: Objection.

3 Q That some hours your paychecks
4 reflected that you received overtime pay,
5 correct?

6 MR. MCNAMARA: Objection.

7 A Yes.

8 Q That Louis Vecchia always treated
9 you fairly, correct?

10 MR. MCNAMARA: Objection.

11 A Yes, of course.

12 Q He was nice to you?

13 A Yes.

14 Q He treated you well?

15 A Yes.

16 Q And he was nicer to you than
17 Maynor Fajardo?

18 A Yes.

19 Q That you miss working for him?

20 A No.

21 Q You like making \$20 an hour?

22 A I'm happy.

23 Q Would you rather make \$30 an hour?

24 A Yes. But I eat lunch and I get
25 out early, I'm with my family at night.

1 J. Vega Castillo

2 Q You worked too hard when you were
3 with Suffolk Paving?

4 A Yes.

5 Q Is that what this is about?

6 MR. MCNAMARA: Objection.

7 Q A little bit?

8 A Yes.

9 Q I'm sorry you feel that you worked
10 too hard there.

11 A I had to do it, I needed to work.

12 Q You had to do it, you needed
13 money. Is that your testimony?

14 MR. MCNAMARA: Objection.

15 A No, I always have worked -- I want
16 him to be fair with us.

17 Q He was. You already testified
18 that Louis Vecchia was always fair with you,
19 correct?

20 MR. MCNAMARA: Objection.

21 Q Correct; yes or no?

22 A Yes.

23 Q You only want him to be what he
24 already was, correct?

25 A I don't understand that question.

1 J. Vega Castillo

2 Q You say you only want Louis
3 Vecchia to be fair, and you already testified
4 that he was fair with you, correct?

5 MR. MCNAMARA: Objection.

6 Q Yes or no?

7 A Yes.

8 Q Do you want to withdraw your
9 lawsuit?

10 MR. MCNAMARA: Objection.

11 A What do you mean? I don't
12 understand.

13 Q Do you want to withdraw your
14 lawsuit?

15 MR. MCNAMARA: Objection.

16 A No, of course not.

17 Q Because if you keep your lawsuit,
18 you think you're going to get paid money, right?

19 MR. MCNAMARA: Objection.

20 Q Yes or no?

21 A At least he's not going to
22 continue doing this with other people.

23 Q You mean continue to treat people
24 fairly, correct?

25 MR. MCNAMARA: Objection.

1 J. Vega Castillo

2 A Yes, that is the only thing.

3 Q Did anybody tell you how much
4 money you're going to get from this lawsuit?

5 A No.

6 Q Do you think you're going to get
7 money?

8 A I don't know.

9 Q I do.

10 A That's good.

11 Q Okay.

12 MR. ZABELL: Let's schedule
13 another day for you to come back when you
14 have your documents.

15 MR. MCNAMARA: We're objecting to
16 having to produce Mr. Castillo again.

17 MR. ZABELL: Patrick, your
18 co-counsel didn't even ask this guy to
19 brother to produce any of his documents.
20 I would have gladly finished today. In
21 fact, it's only 4:00.

22 MR. MCNAMARA: I want to put the
23 objection on the record.

24 MR. ZABELL: What is your basis,
25 because we need to hash it out? Because

1 J. Vega Castillo

2 I'm not going to shut the deposition,
3 unless we get the Judge on the phone,
4 unless you're going to agree to provide
5 him for a limited amount of time to go
6 over his documents.

7 MR. MCNAMARA: Can we limit the
8 questioning to an hour?

9 MR. ZABELL: I can limit it to
10 just going over those documents.

11 MR. MCNAMARA: We will consent to
12 that.

13 MR. ZABELL: Do you want him to
14 get the documents, then we will
15 reschedule?

16 MR. MCNAMARA: I guess that makes
17 sense.

18 We're done for the day?

19 Q Do you want to be done for the
20 day?

21 A Whatever you say.

22 Q If it's whatever I say, I'm going
23 to tell you that I think you should drop your
24 lawsuit.

25 A How can you be so unfair with us?

1 J. Vega Castillo

2 Would you work for free for many years?

3 Q You didn't work for free.

4 A Oh, my God.

5 Q You worked for a man who treated
6 you fairly and paid you fairly and now somebody
7 is whispering in your ear that there is a pot of
8 gold at the end of the rainbow and you're just
9 lining up for your scoop.

10 MR. MCNAMARA: Objection.

11 Q Right?

12 A This man knows that he has taken
13 hours from us for many years and that is
14 everything.

15 Q I think you have been listening to
16 Pracelis Mendez and Maynor Fajardo, and they are
17 not being honest with you, okay?

18 I will see you probably within a
19 week or two. We will figure out a nice day when
20 we will get together, okay?

21 A Okay.

22 MR. ZABELL: You can leave me now.

23 THE WITNESS: Okay, thank you.

24 MR. ZABELL: Thank you, sir.

25 (Time noted: 4:00 p.m.)

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A C K N O W L E D G E M E N T

STATE OF NEW YORK)

: ss

COUNTY OF)

I, JOSE VEGA CASTILLO, hereby certify that
I have read the transcript of my testimony taken
under oath in my deposition of October 19, 2011;
that the transcript is a true, complete and
correct record of my testimony; and that the
answers on the record as given by me are true
and correct.

JOSE VEGA CASTILLO

Signed and subscribed to
before me, this ____ day
of _____, 20__

Notary Public, State of New York

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I N D E X

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C E R T I F I C A T E

STATE OF NEW YORK)
) ss:
COUNTY OF NASSAU)

I, MICHELLE ADAMO, a Shorthand Reporter
and Notary Public within and for the State of
New York, do hereby certify:

That JOSE VEGA CASTILLO, the witness whose
examination is herein before set forth, was duly
sworn by me and that this transcript of such
examination is a true record of the testimony
given by such witness.

I further certify that I am not related to
any of the parties to this action by blood or
marriage and that I am in no way interested in
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this 19th day of October 2011.

MICHELLE ADAMO

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ERRATA SHEET

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